



## *Report to the Auburn City Council*

Action Item
Agenda Item No. 6
City Manager's Approval

**To:** Honorable Mayor and City Council Members  
**From:** Michael G. Colantuono, City Attorney  
**Date:** September 13, 2011  
**Subject:** Proposed Home Rule for Auburn Charter of 2012

### *The Issue*

What form of charter should the City Council place on the June 5, 2012 ballot for consideration by the City's voters?

### *Conclusions and Recommendations*

The September 13, 2011 draft of the charter attached to this report includes the changes requested by the City Council at its August 22<sup>nd</sup> meeting and was posted to the City's web site for public review shortly after that meeting. Also attached to this report is a resolution by which the Council may call a special election to be consolidated with the State Primary Election on June 5, 2012. I recommend that the Council discuss this latest draft, make any further revisions, and adopt the attached resolution to place the charter before the voters.

### *Discussion*

The attached September 13, 2011 draft of the charter is presented in both a clean (or "blackline") and redline versions to highlight the changes over the August 22, 2011 draft. Some of those changes address typographical errors and matters of form and require no explanation. This report addresses the more substantive issues.

**Section 200** is amended as the Council directed to make clear that the charter does not change the City's form of government.

**Section 201:** This section is amended to preserve the status quo in which the Clerk and Treasurer are elected officials the qualifications of whom are provided by state law. Those qualifications are minimal – candidates need only be registered voters of the City.

**Section 203:** This provision is slightly adjusted to account for the fact that the Clerk and Treasurer will continue to be elected.

**Section 204:** This section regarding an appointed Clerk and Treasurer is deleted, as you directed.

**Section 301:** The reference to the City's historic character is added, as you directed.

**Section 302:** This provision is reformatted and punctuated as you directed to make clear that professional service contracts are not awarded to the lowest bidder, but to the most qualified.

**Resolution Calling Special Election.** This resolution is substantively identical to the draft which appeared in the agenda packet for your August 22<sup>nd</sup> meeting.

**Recommendations and Conclusion**

I recommend you:

1. Direct staff regarding any further amendments to the September 13, 2011 draft charter you desire.
2. Waive full reading and adopt the attached Resolution to call a special election on June 5, 2012 in the City to consider the charter and to request the County Registrar of Voters to conduct that election after consolidating it with the State Primary Election.

I will be in attendance at your September 13<sup>th</sup> meeting and can assist your discussion as you wish. If I can provide further advice or assistance in the meantime, please let me know.

Attachments: Resolution Calling Special Election on Charter  
September 13, 2011 Draft Charter (blackline)  
September 13, 2011 Draft Charter (redline)

## **RESOLUTION NO. 10-**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN CALLING AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 5, 2012, REQUESTING CONSOLIDATION OF THAT ELECTION WITH THE STATE PRIMARY ELECTION, AND REQUESTING SERVICES FROM THE PLACER COUNTY CLERK WITH RESPECT TO THAT ELECTION**

**WHEREAS**, the City Council has proposed that the voters of the City consider adoption of the Home Rule for Auburn Charter of 2012, the text of which is on file in the office of the City Clerk; and

**WHEREAS**, the City Council has determined it appropriate to call a special municipal election of the City of Auburn to consider that proposal on June 5, 2012; and

**WHEREAS**, the interests of efficiency call for the consolidation of that election with the state primary election to be held that same date; and

**WHEREAS**, the City Council requests services from the Placer County Clerk for the conduct of that election.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** The City Council finds and determines that each of the findings set forth above is true and correct.

**SECTION 2.** Pursuant to the California Elections Code, there is hereby called and ordered to be held in the City of Auburn, California, on Tuesday, June 5, 2012, a special municipal election.

**SECTION 3.** Pursuant to California Elections Code Section 9222, the City Council hereby orders the following question to be submitted to the voters at the June 5, 2012 Special Municipal Election:

Shall the Home Rule for Auburn Charter of 2012 be adopted?

**SECTION 4.** The City Council hereby declares its intent to consolidate this special election with the Statewide Primary Election to be held on June 5, 2012. This resolution shall constitute the request for consolidation required by Elections Code Section 10403 and the City Clerk shall forward a certified copy of this resolution to the Clerk of the Placer County Board of Supervisors not later than 88 days prior to June 5, 2012.

**SECTION 5.** That the ballots to be used at the special election shall be in form and content as required by law.

**SECTION 6.** Notice of the time and place of holding the election is hereby given, and the City Clerk is authorized, instructed and directed to give further or additional notice of the special election, in time, form and manner as required by law.

**SECTION 7.** That in all particulars not recited in this resolution, the special election shall be held and conducted as provided by law.

**SECTION 8.** The City Clerk is hereby authorized, instructed and directed to procure and furnish (or cause to be procured and furnished) any and all official ballot notices, printed matter and all other supplies, equipment and paraphernalia that may be necessary to prepare and lawfully conduct the special election.

**SECTION 9.** The City Clerk is hereby authorized to utilize the services of the Placer County Clerk for the conduct of the special election. The City of Auburn hereby agrees to pay the costs of those services as outlined by current policy of the Placer County Elections Division.

**SECTION 10.** The City Clerk is authorized to canvass the returns of the Special Election and to certify the same to City Council at the time and in the manner provided by law.

**SECTION 11.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 13<sup>TH</sup> day of SEPTEMBER 2011.

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William Kirby, M.D., Mayor

ATTEST:

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Joseph G. R. Labrie, City Clerk

I, Joseph G.R. Labrie, City Clerk of the City of Auburn hereby certify that the foregoing resolution was duly passed at a regular meeting of the City Council of the City of Auburn held on September 13, 2011, by the following vote on roll call:

Ayes:

Noes:

Absent:

Abstain:

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Joseph G.R. Labrie, City Clerk

# CHARTER OF THE CITY OF AUBURN

## PREAMBLE

**WE THE PEOPLE** of the City of Auburn declare our intent to restore to our community the historic principles of self-governance inherent in the doctrine of home rule. Sincerely committed to the belief that local government has the closest affinity to the people, and firm in the conviction that the maximum economic, fiscal and policy-making independence of local government will better serve and promote the health, safety and welfare of all the citizens of this City, we do hereby exercise the express right granted by the Constitution of the State of California to adopt this Charter for the City of Auburn.

## CHARTER Article I Municipal Affairs

### Section 100. Municipal Affairs

Each of the responsibilities of governance set forth and described in this Charter, and as established by the Constitutional, statutory and common law of the State of California, is hereby declared to be a municipal affair or concern, the performance of which is uniquely to the benefit of the citizens of the City of Auburn.

### Section 101. Powers

The City shall have all powers that a City can have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power.

### Section 102. Incorporation and Succession

The City shall continue to be a municipal corporation known as the City of Auburn. The boundaries of the City of Auburn shall continue as now established until changed in the manner authorized by law. The City shall remain vested with and shall continue to own, possess, control and enjoy all property rights and rights of action of every nature and description owned, had, possessed, controlled or enjoyed by it when this Charter takes effect. It shall be subject to all debts, obligations and liabilities which exist against the City when this Charter takes effect. All lawful ordinances, resolutions, rules and regulations, or portions thereof, in force when this Charter takes effect and not in conflict with or inconsistent herewith, are hereby continued in force until the same have been duly repealed, amended, changed or superseded by proper authority.

## Article 2 Form of Government

### Section 200. Form of Government

The City shall continue to be governed under this Charter by a "Council-Manager" form of government. The City Council will establish the policy of the City and the City Manager will carry out that policy.

### Section 201. Elected Officials

The City Council shall consist of five members, each elected at-large who, along with the Clerk and Treasurer, shall be the sole elected officials of the City. The minimum qualifications for these offices shall be as provided by law for general law cities and any vacancy in office shall be filled in the manner provided by that law. The Council shall choose from among their own number a Mayor and a Mayor pro tempore, who may also use the title Vice Mayor.

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### Section 202. Council Member Compensation

The salary of the Mayor and Council Members shall continue to be set pursuant to the law applicable to general law cities provided, however, that neither the Mayor nor any Council Member may receive a pension or unemployment insurance.

### Section 203. Elections

Elections shall be conducted in accordance with the law applicable to general law cities. The powers of initiative, referendum and recall shall apply in the City as they do in general law cities under the applicable provisions of state and federal law.

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Section 204. City Clerk and City Treasurer¶

The qualifications for the City Clerk and City Treasurer shall be established by ordinance of the City Council. The City Clerk and City Treasurer in office when this charter takes effect shall serve out of their terms, but their successors shall take office as provided by ordinance

## Article 3 Fiscal Accountability and Transparency

### Section 300. Performance-Based Management and Budget

The City shall each year enact a Performance-Based Budget, which shall include, but not be limited to, information about revenues, expenditures, assets, liabilities, Council-established goals, department and program objectives and measurable service levels provided to city residents and business owners. The City shall place on its Internet Website, or otherwise make available to residents and business owners free and convenient access to, current budgetary and other information that shows how tax and fee revenues received by the City are being used to provide services to Auburn residents and business owners.

### Section 301. Economic and Community Development

The City shall encourage, support, and promote economic and community development and preserve and enhance the small-town and historic character of Auburn.

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### Section 302. Public Works Contracts

The City shall comply with law applicable to general law cities with regard to:  
(i) competitive bidding for public works contracts; and

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- (ii) ~~contracts for professional services based on demonstrated competence and professional qualifications.~~

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### **Section 303. Prevailing Wage**

No City contract shall require payment of the prevailing wage schedule unless:

- (i) the prevailing wage is legally required, and constitutionally permitted, to be imposed;
- (ii) required by federal or state grants pursuant to federal or state law;
- (iii) the City Council does not consider the project to be a municipal affair; or
- (iv) payment of the prevailing wage schedule is authorized by resolution of the City Council.

Payment of the prevailing wage schedule, if authorized hereunder, shall use the pertinent rates established by the State of California.

### **Section 304. The Think-Local-First Option**

To the extent permitted by state and federal law, the City may establish by ordinance specified and limited bid advantages for firms based within a specified distance of the City. The City may enact such an ordinance in recognition of the fact that local firms and local employees help support Auburn's economy and provide air and water quality benefits for local citizens. The City shall establish all standards, procedures, rules or regulations to regulate all other aspects of public contracting.

### **Section 305. Supporting Volunteers in Auburn**

The City seeks to support volunteers in creating a higher quality of life for Auburn citizens and as such declares itself exempt from any state laws or regulations that would make it more difficult or expensive for volunteers to participate in any community project, whether funded with City revenues or not.

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### **Section 306. Limitation on Taxing Authority**

This Charter shall not be interpreted as giving the City greater authority to raise the level of taxes or fees or to create new taxes or fees beyond the powers granted to general law cities nor to exempt the City from any procedures for raising the level of taxes or fees or for creating new taxes or fees required by the law applicable to general law cities.

## **Article 4 Revenue Retention**

### **Section 400. Reductions Prohibited**

Revenues raised and collected by the City shall not be subject to subtraction, retention, attachment, withdrawal or any other form of involuntary reduction by any other level of government.

### **Section 401. Mandates Limited**

No person, whether elected or appointed, acting on behalf of the City, shall be required to perform any function which is mandated by any other level of government, unless and

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until funds sufficient for the performance of such function are provided by the mandating authority.

## **Article 5 General Laws**

### **Section 500. General Law Powers**

In addition to the power and authority granted by this Charter and the Constitution of the State of California, the City shall have the power and authority to adopt, make, exercise and enforce all legislation, laws and regulations and to take all actions and to exercise any and all rights, powers, and privileges heretofore or hereafter established, granted or prescribed by any law of the State of California or by any other lawful authority. In the event of any conflict between this Charter and the general laws of the State of California, this Charter shall control.

### **Section 501. General Plan and Zoning Consistency**

The zoning ordinance of the City shall be consistent with the City's general plan as required by the law applicable to general law cities.

## **Article 6 Interpretation and Amendment**

### **Section 600. Construction & Interpretation**

The language of this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its power to govern with respect to any matter that is a municipal affair. Every reference in this Charter to state or federal law shall mean that law as it exists when this Charter takes effect or as it may thereafter be amended.

### **Section 601. Title**

This Act shall be known as the "Home Rule for Auburn Charter of 2012."

### **Section 602. Severability**

If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

### **Section 603. Amendment to Charter, revised or repealed**

As provided by state law, this Charter, and any of its provisions, may be amended by a majority vote of the electors voting on the question. Amendment or repeal may be proposed by initiative or by the City Council.

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I hereby affirm that the foregoing Home Rule for Auburn Charter of 2012 was submitted to a vote of, and ratified by, a majority of the voters of the City of Auburn in a special election held for that purpose on June 5, 2012.

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Mayor

ATTEST:

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City Clerk

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Mayor

ATTEST:

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City Clerk

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